

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 6, 2004

IN RE:)	
)	
PETITION OF TENNESSEE WASTEWATER)	DOCKET NO. 04-00171
SYSTEMS, INC. TO AMEND ITS CERTIFICATE)	
OF CONVENIENCE AND NECESSITY)	

ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a Hearing held on August 30, 2004, to consider the *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* (the "Petition") requesting that the Authority amend its service area to expand its service territory to include a portion of Davidson County, Tennessee, known as Arbor Crest Subdivision.

Legal Standard for Granting Certificate of Public Convenience and Necessity

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Tennessee Regulatory Authority. The procedure for obtaining a certificate of convenience and necessity ("CCN") evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of

which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

Background

On April 6, 1994, Tennessee Wastewater Systems, Inc.¹ received a CCN in Docket No. 93-09040² from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee.

At a regularly scheduled Authority Conference on July 26, 2004, the voting panel assigned to this docket voted unanimously to appoint the Authority's General Counsel or his designee to act as the Hearing Officer in this proceeding, to hear preliminary matters prior to the Hearing, and to set a procedural schedule to completion.³ The Hearing Officer issued a *Notice of Hearing* on August 2, 2004, announcing that the voting panel assigned to this docket would conduct the Hearing on the merits of the *Petition* on Monday, August 30, 2004, immediately following the regularly scheduled Authority Conference.

The Petition

On June 10, 2004, Tennessee Wastewater Systems, Inc. ("Tennessee Wastewater" or the "Company") filed a *Petition* to amend its CCN to expand its service area to include a portion of Davidson County, Tennessee, known as Arbor Crest Subdivision. A map showing the area to which the Company proposes to extend service is attached to its *Petition*. Tennessee Wastewater filed a

¹ In Docket No. 03-00518, by Order dated February 19, 2004, On-Site Systems, Inc. changed its name to Tennessee Wastewater Systems, Inc.

² See *In re The Application of On-Site Systems, Inc. for a Certificate of Convenience and Necessity to Provide Sewage Collection, Treatment and Disposal for a Proposed Development in Maury County*, Docket No. 93-09040, Order (April 6, 1994)

³ *Order Appointing A Hearing Officer* (August 3, 2004)

rate schedule with its *Petition* in this docket, which states that the residential rates for Arbor Crest Subdivision will be as follows:

Total Monthly Charge	\$35 11
Non-Payment Fee	5% of Monthly Charge
Disconnection Fee	\$25
Reconnection Fee	\$15
Returned Check Fee	\$20
Access Fee	\$84/year

This rate schedule comports with the rate schedule approved by the Authority in Docket No. 99-00393

Tennessee Wastewater filed a rate schedule for commercial sewer service without food service and with food service with its *Petition* in this docket. The monthly rate schedule service is based on a daily design flow expected from the type of establishment being served.

The minimum monthly sewer rate applicable to a commercial customer without food service is \$75 for the first 300 gallons per day of design flow expected. For each additional 100 gallons up to 1,000 gallons per day design flow, there is a charge of \$15 per month per 100 gallons. For 1,000 gallons up to 3,000 gallons per day design flow, sand-gravel filter sewer treatment charge per 1,000 gallons is \$140 for drip irrigation and \$165 for point discharge. For lagoon sewer treatment, the charge per 1,000 gallons is \$116 for drip irrigation and \$140 for point discharge. Customers with treatment and disposal by another entity will pay a \$73 per month minimum charge plus pass through costs from the other entity. A surcharge will apply for excess water usage above the expected design flow. For 1 gallon to 1,000 gallons, the surcharge is \$175. For 1,001 gallons to 2,000 gallons, the surcharge is \$200. And for excess usage over 2,000 gallons, the surcharge is \$200 per 1,000 gallons. Other fees include:

Non-Payment	5% Penalty
Disconnection Fee	\$10
Reconnection Fee	\$15
Returned Check Fee	\$20

The minimum monthly sewer rate applicable to a commercial customer with food service is \$100 for the first 300 gallons per day of design flow expected. For each additional 100 gallons up to 1,000 gallons per day design flow, there is a charge of \$18 per month per 100 gallons. For 1,000 gallons up to 3,000 gallons per day design flow, sand-gravel filter sewer treatment charge per 1,000 gallons is \$170 for drip irrigation and \$192 for point discharge. For lagoon sewer treatment, the charge per 1,000 gallons is \$142 for drip irrigation and \$163 for point discharge. Customers with treatment and disposal by another entity will pay a \$94 per month minimum charge plus pass through costs from the other entity. A surcharge will apply for excess water usage above the expected design flow. For 1 gallon to 1,000 gallons, the surcharge is \$210. For 1,001 gallons to 2,000 gallons, the surcharge is \$220. And for excess usage over 2,000 gallons, the surcharge is \$220 per 1,000 gallons. Other fees include:

Non-Payment	5% Penalty
Disconnection Fee	\$10
Reconnection Fee	\$15
Returned Check Fee	\$20

In its *Petition*, Tennessee Wastewater contends that the Metropolitan Government of Nashville and Davidson County ("Metro Water Services") has declined to provide sewer service to the subject area. In support of this contention, the Company submitted a letter dated April 27, 2004, from Mr. Scott Potter, the Director of the Department of Water and Sewerage Services, to Thomas Hopkins, Jr., the developer of Arbor Crest Subdivision, stating that the subject area is so remotely removed from its existing sewer infrastructure that it would not be fiscally feasible for Metro Water Services to provide service to the subject area.

The August 30, 2004 Hearing

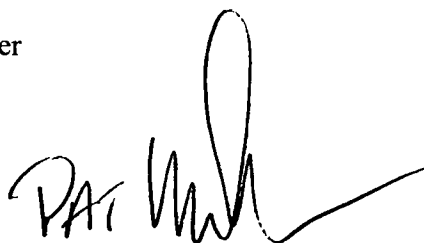
Pursuant to Tenn. Code Ann. § 65-4-203(b), public notice of the Hearing in this matter was issued by the Hearing Officer on August 2, 2004. No persons sought intervention prior to or during

the Hearing At the Hearing held on August 30, 2004, Charles Pickney, Jr., President of Tennessee Wastewater Systems, Inc., participated in the Hearing, presented testimony, and was subject to examination by the panel assigned to this docket. Upon the presentation of Tennessee Wastewater's proof in this case, the evidentiary record as a whole, and in light of the legal standard set forth in Tenn Code Ann § 65-4-201(a), Chairman Pat Miller, Director Deborah Taylor Tate and Director Sara Kyle, the voting panel assigned to this docket, voted unanimously at the Hearing to approve Tennessee Wastewater's *Petition*

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service territory to include a portion of Davidson County, known as Arbor Crest Subdivision, as shown in the map attached to the *Petition* is approved

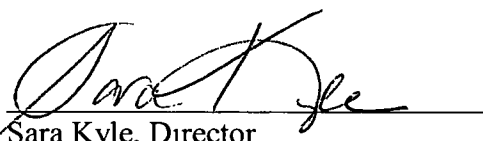
2 Tennessee Wastewater Systems, Inc.'s rates for wastewater services to Davidson County, Tennessee, known as Arbor Crest Subdivision, shall be in compliance with the rate schedule attached to their *Petition* and as set forth in this Order



Pat Miller, Chairman



Deborah Taylor Tate, Director



Sara Kyle, Director